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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of ) FCC 96-93  
)  
Federal-State Joint Board on ) CC Docket No. 96-45  
Universal Service )

**AFFIDAVIT OF SERVICE**

I hereby certify that a copy of the

**Comments of United Utilities, Inc.  
in Response to Notice of Proposed Rulemaking and  
Order Establishing Joint Board  
Released March 8, 1996**

were mailed on April 9, 1996 to the persons indicated on the Federal-State Joint Board Service List and United Utilities, Inc.'s Courtesy List.

DATED this 9th day of April 1996.

UNITED UTILITIES, INC.

BY: Bonnie J. Scherer  
Bonnie J. Scherer

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Before the  
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Universal Service	)	

**COMMENTS OF UNITED UTILITIES, INC.**  
**IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING AND**  
**ORDER ESTABLISHING JOINT BOARD**  
**RELEASED March 8, 1996**

## **SUMMARY**

United Utilities, Inc. (United) is a local exchange carrier serving approximately 4,600 access lines in 58 communities covering over 70,000 square miles in rural Alaska. The Commission's existing universal service mechanisms have made it possible for United to borrow money and to build facilities to provide telephone service in these remote and isolated communities. Herein we are responding to the Commission's NPRM on Universal Service.

Following is a summary of United's comments and recommendations:

1. Universal service support should be based upon existing local exchange carrier (LEC) costs and existing LEC study areas.
2. When a state designates more than one eligible carrier, access to universal service funds for the additional carrier(s) should be phased in over a ten year period.
3. To be consistent with the federal Act, there should be no further consideration of making access to universal service funds competitively neutral and of creating a bidding scheme for universal service funds.
4. The Commission should avoid shifting costs onto state ratepayers and maintain jurisdictional neutrality.
5. Support for Category 3 switching costs needs to be made explicit. This can be done by changing the DEM allocator, which incorrectly accounts for local usage, to a new switched minutes of use allocator (SMOU).
6. Support for Category 3 switching costs should be the difference between weighted DEM and SMOU. The DEM weighting factors should be changed to better target switching costs that need to be supported.
7. A subscriber loop cost allocation factor should be developed for each study area needing universal service support to ensure affordable local rates.
8. All telecommunications providers with annual interstate revenues in excess of \$10 million (excluding universal service funds/revenues) should contribute to universal service. Also, public and private entities that own and operate telecommunications networks should contribute.

**USF SUPPORT SHOULD BE BASED UPON  
EXISTING LEC COSTS/STUDY AREAS.  
ANY CHANGES REQUIRE A TRANSITION PERIOD.**

United is recommending that USF support initially be determined using existing LEC costs and LEC study areas. The comments filed in CC Docket No.80-286 in reply to the use of proxies and benchmark cost models clearly document that these methodologies, and the many flaws and problems using them, cannot be overcome in a timely matter, if ever, to meet the time lines contained in the Act. The primary objective of the Act is to provide to persons living in high cost areas access to telecommunications services at affordable rates. Commenters proposing alternatives, other than the use of existing LEC costs and study areas, should explain how their proposals meet this objective without undermining the Commission's ability to adhere to the Act's time constraints.

The NPRM seeks comments on whether the Commission should "ensure that the means of distributing universal service support should be competitively-neutral" (para. 8). The Act (Section 102) assigns to the states the responsibility for determining what carrier or carriers will be eligible to receive universal service funding. In other words, the states have the responsibility for determining whether there will be more than one carrier in a study area that will receive universal service funding. Congress recognized that there will be a limited amount of universal service funding and therefore reserved the designation of eligible carriers to the states. This was necessary for the states to have a role in ensuring that universal service funding is used prudently and not wasted on unnecessary and uneconomic duplication of facilities and services. There is, therefore, no need to ensure that the distribution of universal service support be competitively-neutral unless a state designates more than one carrier in a study area as being eligible to receive universal service support.

In those cases where a state designates more than one carrier as being eligible to receive universal service support, United recommends that:

1. Only those carriers with facilities capable of serving all the customers within a study area should receive support. This is consistent with Section 254(e) of the Act that states, "A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

2. Access to universal service funds for newly designated eligible carriers should be phased in over a ten year period. The transition would occur as follows: during the first year, the incumbent carrier would receive ninety percent of the universal service support with the remaining ten percent allocated on a per customer basis and

assigned to the carrier to whom the customer subscribes. In this way, the remaining ten percent of universal service support would be shared between the incumbent and the new entrant(s). In the second year, the incumbent carrier would receive eighty percent of the universal service support with the remaining twenty percent allocated on a per customer basis between the incumbent and the new entrant(s). Each year the percentage of support that the incumbent carrier receives would decrease by ten percent while the amount allocated between the incumbent and the new entrant(s) would increase by ten percent. By the end of the ten year transition period, all of the support would be assigned to customers and no support would be directly assigned to the incumbent carrier. In reply to para. 40 asking for comments on the need for a transition period, a period of ten years is needed for several reasons. The primary reason is that the incumbent LEC has made investments, borrowed money, and provided service based upon the Commission's existing regulations encouraging universal service.

Incumbent carriers have a right not to be subject to sudden policy changes with severe, even confiscatory, effects. They have a right to insist upon a rational basis for any agency decision. Commission failure to provide a transition mechanism to assist small LECs under any new cost support system would represent a radical departure from past practice and raise fundamental questions of lawfulness. Without a transition period, deep pocket players would have the opportunity to eliminate small companies overnight with the long term result being less competition, less consumer choice, and higher prices. Additionally, there would be little incentive for carriers to build infrastructure in high cost areas if there were no transition period.

### **COMPETITIVE BIDDING FOR FEDERAL USF WOULD VIOLATE THE ACT**

The NPRM (para. 35) solicits comments on "whether relying on a competitive bidding process to set the level of subsidies required in rural, insular, and high-cost areas would be consistent with Section 214(e), which addresses the circumstances under which telecommunications carriers are eligible to receive universal service support." Section 214 assigns to the individual states the responsibility for designating carriers that will be eligible to receive universal service funds. A federal competitive bidding scheme would have the Commission perform this function by awarding high cost assistance to the successful bidder. This would be in violation of the Act.

Competitive bidding would merely provide companies that have substantial resources with an opportunity to force smaller companies out of business and reduce competition over the long term. We can foresee the scenario of a larger company entering a market to undercut the incumbent carrier and force it to sell out even though the incumbent carrier is delivering quality service in a very cost effective manner. Once the

incumbent carrier is out of the market, the larger carrier would have effectively eliminated its competition by merely underbidding the smaller carrier. Competitive, least-cost bidding is not an acceptable solution.

**THE COMMISSION SHOULD PREVENT UNFUNDED FEDERAL MANDATES AND  
MAINTAIN JURISDICTIONAL NEUTRALITY**

The NPRM (para. 27) seeks comment to "identify methods for determining the level of support required to assure that carriers are financially able to provide the services identified for inclusion among those to be supported by universal service funds in rural, insular, and high-cost areas." In addition to the other recommendations contained herein, United is recommending that the Commission not make any changes to its high cost and universal service programs that would shift costs and obligations onto the states in a way that would undermine the goal of universal service. This is particularly important in Alaska due to geography and environmental considerations. There are over 200 locations where small numbers of people live in isolated areas. Carriers will not be able to provide universal service in Alaska if the Commission shifts what are now costs funded from interstate revenue sources onto state ratepayers.

**UNIVERSAL SERVICE SUPPORT IS NEEDED FOR  
ABOVE AVERAGE SWITCHING COSTS. THIS SUPPORT  
NEEDS TO BE EXPLICIT AND MORE NARROWLY TARGETED**

Currently, the DEM weighting is used to assign Category 3 switching costs to the interstate jurisdiction to support the provision of universal service in high cost areas. In its herein incorporated Comments to CC Docket No.80-286 (Notice of Proposed Rulemaking and Notice of Inquiry Addressing Universal Service, Released July 13, 1995), United documented that smaller switches experience higher costs on a per line or unit of traffic basis than do larger switches (para. 10, including Table 1). With the passage of the 1996 Telecom Act, the support for switching costs needs to be made explicit (para. 30) and it needs to be targeted (para. 27). To accomplish this, three steps need to be taken:

First, the current DEM methodology for assigning switching costs to the interstate jurisdiction needs to be changed to more accurately reflect the relative use of Category 3 switching costs for interstate usage. DEM is not a correct measurement of relative usage because it incorporates a double counting of intra office minutes whereas, in reality, a local switch only switches a call once. Switched minutes of use (SMOU) is a usage based allocator that counts each minute of use, whether local or toll, only once. SMOU more closely reflects the actual relative use of digital switches than DEM which reflects the use of separate equipment in electromechanical offices for the origination

and termination of a call. In order to make high cost or universal service support explicit, SMOU (not DEM) needs to be used as the allocator to assign the unsupported (i.e. costs that are not eligible for universal service support) Category 3 costs to the interstate jurisdiction.

Second, the amount of Category 3 switching costs eligible for universal service needs to be determined. This can be accomplished using a DEM weighting factor. (Note that there are no SMOU weighting factors we are aware of that can be used for this purpose). The universal service support for Category 3 switching costs would then be the difference between the allocation to the interstate jurisdiction using the weighted DEM and the allocation resulting from the use of the SMOU allocator. This procedure will clearly identify, and make explicit, the universal service support for Category 3 switching costs.

Third, the existing DEM weighting factors need to be revised to more narrowly target universal service support only to those study areas that need support. Attachment 1 provides United's analysis of the data provided in response to the Commission's data request in CC Docket No.80-286 that shows the DEM weighting factors should be 4.0 for switches with less than 300 lines, 2.5 for switches with 300 - 2,999 lines, and 1.5 for switches with 3,000 - 49,999 lines.

**A USF SUBSCRIBER LOOP COST ALLOCATION  
FACTOR SHOULD BE DEVELOPED FOR EACH STUDY AREA NEEDING  
USF TO ENSURE AFFORDABLE LOCAL RATES**

Currently, 25 percent of subscriber loop costs are assigned to the interstate jurisdiction. The 25 percent allocator needs to be retained so that interexchange carriers are paying to use subscriber loop plant to originate and terminate interstate calls. In rural and high cost study areas, USF support is needed to ensure that residents have access to local service at affordable rates. The level of this support varies by study area. In United's Comments In Response to Notice of Inquiry Released August 30, 1994, cc: 80 - 286, page 8, United proposed a USF cost allocation factor that would be the percentage of loop recovery needed in high cost study areas to support local telephone rates at existing nationwide average levels. United continues to support its recommendation that a subscriber loop allocator be developed on a study area basis and that the allocator be used to assign subscriber loop costs to the USF to the extent this assignment is needed to support affordable local rates. (This approach would assign 25 percent of subscriber loop costs to the interstate jurisdiction and 25 percent of subscriber loop costs to the state jurisdiction). Up to fifty percent of the subscriber loop costs would be recoverable from the USF to the extent such recovery is necessary to support local rates at nationwide average levels for study areas of similar size.

For purposes of defining affordable local rates, United recommends the use of existing average nationwide local rates for study areas of similar size. Additional assistance to subscribers with low incomes should be handled through special programs such as the Lifeline Assistance and Link-up America programs.

### **WHO SHOULD CONTRIBUTE AND HOW SHOULD THE CONTRIBUTION BE ASSESSED?**

The NPRM (para. 118 - 120) seeks guidance on determining who should contribute to the funding of universal service and how the contribution should be assessed. United recommends initially that all telecommunications providers (providers who offer telecommunications services to the public for a fee) with annual interstate revenues in excess of \$10 million dollars (excluding universal service fund revenues) be required to contribute to the funding of universal service. We also recommend that the definition of telecommunications providers be expanded to include all entities, both public and private, that own and operate private telecommunications networks that carry interstate traffic having a commercial value in excess of \$10 million annually. There is no valid reason to exclude private networks from those who are required to contribute to universal service.

Consumers have a choice: they can build their own networks, they can obtain services from providers who offer services to the public for a fee, or they can have their telecommunications requirements satisfied by combining their own networks with services that are provided by telecommunications carriers. The Commission should not allow a self provider of interstate telecommunications to escape from contributing to the preservation and advancement of universal service. This would create uneconomic incentives to construct private systems and it would increase the burden of universal service on the remaining providers of interstate telecommunications services.

The contribution to universal service should be based upon annual interstate revenues, less any amounts received from the universal service fund, and should be assessed to telecommunications providers who offer services to the public for a fee. Self providers of interstate services should be assessed a contribution amount based upon the estimated annual commercial value of the interstate service they provide to themselves.



## **CONCLUSION**

United has provided a number of recommendations that should be useful to the Commission in the restructuring of universal service. These recommendations are consistent with the prior comments of United (cc: 80-286 and incorporated herein) and the federal Act. We look forward to being able to comment on the Federal-State Joint Board's recommendations prior to the Board finalizing the recommendations for submission to the Commission.

Respectfully submitted,

  
Steve Hamlen  
President

## ATTACHMENT 1

**TABLE 1**  
**ANALYSIS OF CATEGORY 3 SWITCHING COSTS;**  
**STUDY AREAS WITH A SINGLE SWITCH\***

Switch Size (# Loops)	Investment Per Access Line	Investment Per Thousand ACT	Act Ratio
100-199	\$ 1,231	\$ 117	4.68
200-299	\$ 1,267	\$ 106	4.24
300-399	\$ 922	\$ 60	2.40
400-499	\$ 584	\$ 35	1.40
500-599	\$ 707	\$ 52	2.08
600-699	\$ 677	\$ 51	2.04
700-799	\$ 533	\$ 34	1.40
800-899	\$ 589	\$ 47	1.88
900-999	\$ 487	\$ 41	1.64
1,000-1,999	\$ 476	\$ 38	1.52
2,000-2,999	\$ 408	\$ 36	1.44
3,000-4,999	\$ 406	\$ 29	1.16
5,000-9,999	\$ 459	\$ 32	1.28
10,000-19,999	\$ 517	\$ 36	1.44
20,000-49,999	\$ 437	\$ 30	1.20
50,000-100,000	\$ 398	\$ 25	1.00

\*We could not locate any study areas with single switches serving more than 5,000 loops. For switches with more than 5,000 loops, we used the total study area data which included multiple switches in each study area.

**TABLE 2**  
**PROPOSED ACT WEIGHTING FACTORS**  
**BASED UPON SWITCH SIZE**

Switch Size	ACT Weighting
< 300 lines	4.0
300 - 2,999 lines	2.5
3,000 - 49,999 lines	1.5

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